

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

October 7, 2009

Charles R. Fulbruge III  
Clerk

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No. 09-30141

Summary Calendar

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PETER ROY ALFRED, JR.,

Plaintiff-Appellant

v.

TIM WILKINSON; WINN CORRECTIONAL CENTER; CORRECTIONS CORP  
OF AMERICA; TIM MORGAN; ANGIE MARTIN; COACH LEWIS; COACH  
ROB; TIFFANY WOMACK; OFFICER BRINSON; VIRGIL LUCAS; TOMMY  
GLOVER; NICOLE SCOTT WALKER,

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 1:08-CV-532

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Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Peter Roy Alfred, Jr., Louisiana prisoner # 315023, seeks leave to appeal in forma pauperis the dismissal of his 42 U.S.C. § 1983 suit arising from the seizure of a pair of hightop tennis shoes.

This court must examine the basis of its jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

of appeal is mandatory and jurisdictional in a civil case. *Bowles v. Russell*, 551 U.S. 205, 207-13 (2007). The notice of appeal in a civil action must be filed within 30 days of entry of the judgment or order from which the appeal is taken. 28 U.S.C. § 2107(a); FED. R. APP. P. 4(a)(1)(A). Alfred did not file his notice of appeal until over five months after the dismissal of his suit as frivolous.

Construing Alfred's notice of appeal as a motion to reopen the appeal period under FED. R. APP. P. 4(a)(6), we hereby remand this case to the district court for the limited purpose of determining whether Alfred's appeal should be reopened pursuant to Rule 4(a)(6). The district court is directed to return the case to this court for further proceedings or dismissal, as appropriate, once the ruling has been made.

LIMITED REMAND.